

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

JEROME D. ROBERTSON,

Petitioner,

v.

No. 2:18 CV 337

WARDEN,

Respondent.

OPINION and ORDER

Jerome D. Robertson, a prisoner without a lawyer, filed a habeas corpus petition challenging his prison disciplinary hearing in NCN 18-03-109 where a Disciplinary Hearing Officer (DHO) at the New Castle Correctional Facility found him guilty of sexual conduct in violation of Indiana Department of Correction (IDOC) offense B-216 on April 5, 2018. (DE # 1 at 1.) As a result, Robertson was sanctioned with the loss of 90 days earned credit time and a one-step demotion in credit class. (*Id.*)

On December 18, 2018, IDOC's Final Reviewing Authority reconsidered Robertson's appeal in disciplinary case NCN 18-03-109 and vacated the finding of guilt and sanctions. (DE # 34-1 at 1; DE # 34-6 at ¶¶ 6, 7.) Two days later, on December 20, 2018, the Warden filed a motion to dismiss the case.¹ (DE # 9.) Robertson objected to the motion, asserting that his earned credit time had not been restored. (DE ## 12, 13, 14,

¹ Because the Warden originally filed the motion to dismiss (DE # 12) and corresponding memorandum (DE # 13) in the wrong case, No. 2:18-CV-338, the court directed the Clerk to place the filings (now DE # 16 and DE # 17, respectively) on the docket in this case, No. 2:18-CV-337. *See* 2:18-CV-338, DE # 20.

18.) On May 31, 2019, the court took the motion under advisement and ordered the Warden to file a reply, including appropriate prison records, clarifying whether Robertson's earned credit time was returned to him and Robertson's demotion to Credit Class C had been reversed. (DE # 19.)

On July 17, 2019, the Warden responded to the court's May 31, 2019, order. (DE # 23.) The Warden then moved to file an amended response, and, on July 25, 2019, the court granted that motion. (DE # 25.) However, the Warden did not file exhibits with the amended response and the exhibits filed with the original response at docket entry 23-1 through 23-5 did not appear to pertain to disciplinary case NCN 18-03-109. (DE # 31.) On August 9, 2019, the court denied the Warden's motion to dismiss with leave to refile. (*Id.*)

On August 15, 2019, the Warden filed a second motion to dismiss, along with documentation showing that Robertson's earned credit time had been returned to him and his demotion to Credit Class C had been reversed. (DE # 34.) Specifically, the Warden produced the declaration of Jennifer Farmer, who is the Director of IDOC's Sentence Computation and Release Unit. (DE # 34-6 at ¶ 2.) She testified that as a "result of IDOC vacating the sanctions in case[] NCN 18-03-0109 . . . , [she] removed the sanctions from Robertson's credit class calculation." (DE # 34-6 at ¶ 7.) She further testified that, on January 8, 2019, Robertson's case was reheard and he was sanctioned with a 90-day loss of earned credit time and a one-step demotion in credit class.² (*Id.* at

² If Robertson wants to challenge the January 8, 2019, rehearing in disciplinary case NCN 18-03-109, he will need to file a new petition.

¶ 8.) Moreover, the Warden produced records from the prison's Offender Information System which show that IDOC removed the sanctions from Robertson's credit calculation record; thereby, restoring his lost time. (DE ## 34-3 at 4; 34-4 at 2-3; 34-5 at 2-4.)

Accordingly, because Robertson's guilty finding and sanctions have been vacated, this case is moot and must be dismissed. *See Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003) (prisoner can challenge prison disciplinary determination in habeas proceeding only when it resulted in a sanction that lengthened the duration of his confinement).

For these reasons, the motion (DE # 34) is **GRANTED** and the case is **DISMISSED**. The Clerk is **DIRECTED** to close this case.

SO ORDERED.

Date: January 10, 2020

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT